

1979 WL 42874 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 20, 1979

*1 Senator John H. Waller, Jr.

Senate District No. 11

Post Office Box 867

Mullins, S. C.

Dear Mr. Waller:

This is in response to your request for an Opinion from this Office on the proper procedure for consolidating school districts in Marion County, South Carolina. I am enclosing a copy of the prior Opinion of this Office dated July 12, 1978, which stated that under existing law, the school board trustees have the sole authority to determine any merger or consolidation of any school district in Marion County.

I am also enclosing several prior Opinions from this Office concerning school district consolidation and a copy of [Williams v. Marion County Board of Education](#), 234 S.C. 278, 103 S.E. 2d 640. The [Williams](#) decision outlines the present general law concerning school district consolidation as codified in [§ 59-17-20 et seq. of the 1976 Code of Laws](#). School districts may be consolidated by Act of the General Assembly relating to one or more counties, or by authorization of the county board of education upon one of the following conditions:

- (a) With written approval of the Senator and the entire House Legislative delegation from the county involved;
- (b) Upon a written petition, signed by at least four-fifths of the qualified electors embraced within the limits of each of the school districts involved, which shall state plainly to the county board of education the action petitioned and shall also bear the signed certificate of the members of the County Board of Registration that the number of electors who signed the petition represent at least four-fifths of the qualified electors embraced within the limits of each of the school districts involved; or
- (c) Upon the written petition, signed by at least one-third of the qualified electors embraced within the limits of each of the school districts involved, which shall state primarily the action petitioned and shall bear the signed certificate of the members of the County Board of Registration that the number of electors who signed the petition represent at least one-third of the qualified electors embraced within the limits of each of the school districts involved; if such consolidation be approved favorably by majority of the qualified electors of each of the school districts involved and an election called by the county board of education for the purpose.

Thus, the county board of education may authorize a consolidation when one of the above prerequisite actions has taken place. [Williams](#), *supra*.

It is my Opinion that the Marion County Board of Education may consolidate the school districts of Marion County under the existing general law cited above, provided the General Assembly, by special act, repeals Act 410 of the 1975 Acts and Joint Resolutions and specifically in such act, provides that the general law concerning school district consolidation will be applicable. The title of the act should specifically state that it is to repeal Act 410 of the 1975 Acts and Joint Resolutions and to make the general law applicable to school district consolidations as specified in [§ 59-17-20 et seq.](#)

*2 I will be more than happy to provide additional information and research at your request.

Sincerely,

Frank H. DuRant
Assistant Attorney General

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